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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,571	06/14/2000	Jochen Heinz	1174	7648

7590

03/28/2002

Striker Striker & Stenby
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Huntington, NY 11743

EXAMINER

LAM, ANN Y

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 03/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/593,571

Applicant(s)

HEINZ ET AL.

Examiner

Ann Y. Lam

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1 and 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Larson, 3,940,003. Larson discloses a plastic syringe body (64) having a front end and including a plastic hollow spike (34), and see column 3, lines 22-23, wherein said plastic hollow spike is arranged at said front end of said plastic syringe body and is in one-piece with said plastic syringe body, see Figure 5, said plastic hollow spike includes means (28 or 38) for piercing the elastomeric closure of the medical container, see column 3, lines 12-14, said plastic hollow spike is conical and tapered, see column 3, lines 17-32, and said plastic hollow spike is provided with a bevel, see Figure 2, extending over an entire diameter of said plastic hollow spike at a piercing end of said hollow plastic spike so as to produce an eccentric tip having an edge facilitating penetration of said elastomeric closure, whereby an amount of elastomeric particles from said elastomeric closure contaminating said medicinal substances and a danger of injury from the plastic hollow spike are reduced.

As to claim 19, Larson also discloses a removable cap (24 and 30) engageable on said plastic hollow spike to close said plastic syringe body.

As to claim 20, Larson discloses a plastic syringe body (64) having a front end and including a plastic hollow spike (34), and see column 3, lines 22-23, at said front end which is in one piece with said plastic syringe body, a piston rod with a piston stopper slidably mounted in said plastic syringe body, see column 1, line 13, and a removable cap (24 and 30) engageable on said plastic hollow spike to close said syringe body; wherein said plastic hollow spike includes means (28 or 38) for piercing the elastomeric closure of the medical container, said plastic hollow spike is conical and tapered, see column 3, lines 17-32, and said plastic hollow spike has a slant, see Figure 2, extending over an entire diameter of said plastic hollow spike at a piercing end of said spike so as to produce an eccentric tip having an edge facilitating penetration of said elastomeric closure; whereby an amount of elastomeric particles from said elastomeric closure contaminating said medicinal substances and a danger of injury from the plastic hollow spike are reduced.

Response to Arguments

Applicant's arguments with respect to the above claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on T-F 8-6:30.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (703)308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

A.L. 
March 22, 2002


ANH TUAN T. NGUYEN
PRIMARY EXAMINER

3/15/02